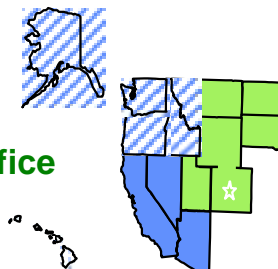




U.S. Army Environmental Center Western Regional Environmental Office

REGION IX - SEPTEMBER 1999



WESTERN REGION REVIEW

This publication provides current information on significant regulatory and legislative developments and related information in the Federal Region IX area (Arizona, California, Hawaii, and Nevada) that affect U.S. Army activities and operations. We appreciate your feedback and encourage you to submit suggestions for future discussion. Please contact us at the Western Regional Environmental Office, ATTN: SFIM-AEC-WR, Building 111, Commerce City, CO 80022-1748, commercial (303) 289-0125, DSN: 749-2125, FAX: (303) 289-0272, or e-mail: redgerto@pmrma-emh1.army.mil.

WESTERN REGIONAL REVIEWS AVAILABLE ON THE INTERNET

Current and past issues of the *WESTERN REGION REVIEW* for Regions VIII, IX, and X are available on the Internet at <http://aec-www.apgea.army.mil:8080/prod/usaec/ro/western/updates/wupdates.htm>.

FEDERAL REGULATORY DEVELOPMENTS

Clean Water Act (CWA):

Administration/EPA Proposes Major Revisions to the TMDL Program

On 14 August 1999, President Clinton announced proposed revisions to the U.S. Environmental Protection Agency's (EPA) Total Maximum Daily Load (TMDL) program. The proposed rule would strengthen non-point source pollution regulation by the EPA, while allowing States to tailor solutions to non-point source pollution on a site-specific basis. Under the Clean Water Act (CWA), States are required to assess waterbodies and list those that fail to meet water quality standards. TMDLs are then developed for each impaired waterbody to which allocate loadings of certain pollutants among dischargers to that waterbody.

The EPA is also proposing to revise the National Pollutant Discharge Elimination System (NPDES) to incorporate TMDLs and allow for a credit-trading program. The revised rule may also authorize the EPA to designate certain historical non-point sources as point sources. The States maintain that the EPA does not have the authority to regulate non-point sources under the CWA, and lawsuits contesting the rule will likely be launched. The EPA expects to release the final TMDL rule in late 1999. For more information on the proposed rule, including state-by-state maps and lists of impaired waters, visit:

<http://www.epa.gov/owow/tmdl/> on the Internet.

President Clinton Signs Water Resources Development Act

On 17 August 1999, President Clinton signed the Water Resources Development Act that authorizes \$6.3 billion in U.S. Army Corps of Engineers flood control, navigation, shore protection and environmental restoration projects. The Act authorizes \$200 million over five years beginning in 2001 for the "Challenge 21" program, and funding would become available upon appropriation. The Challenge 21 program is part of the President's Clean Water Action Plan and budget initiative. Challenge 21 is a pilot program for nonstructural flood control and riverine restoration. A three-page summary of the Act, prepared by the House Transportation and Infrastructure Committee, and the conference report are available at <http://www.house.gov/transportation/index.html> on the Internet.

Endangered Species Act (ESA):**American Peregrine Falcon Delisted From the ESA**

The U.S. Fish and Wildlife Service (FWS) has determined that the American peregrine falcon (*Falco peregrinus anatum*) is no longer an endangered or threatened species pursuant to the Endangered Species Act (ESA). This determination is based on available data indicating that this subspecies has recovered following restrictions on organochlorine pesticides in the United States and Canada, and following the implementation of successful management activities, including those on military lands. This action will remove the falcon as an endangered species from the Federal List of Endangered and Threatened Wildlife, thereby removing all protections provided by the ESA. It also will remove the designation of "endangered due to similarity of appearance" for any free-flying peregrine falcons within the 48 conterminous United States. It will not affect protection provided to this species by the Migratory Bird Treaty Act, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or state laws and regulations. The American peregrine falcon is a known inhabitant of the following military installations: AMC (Deseret, Dugway Proving Grounds, Rocky Mountain Arsenal, Sierra Army Depot, and Toole); ARNG (Ashland, Navajo, and Rilea); FORSCOM (Fort Carson and Pinon Canyon); TRADOC (Fort Huachuca); USARC (Fort Hunter-Liggett); USARPAC (Fort Greeley, Fort Richardson, and Fort Wainwright). A monitoring plan was provided in the proposed delisting rule on 26 August 1998 (63 FR 45446). The FWS is currently developing a revised monitoring plan which will be made available for public review in the Federal Register in the near future. The ruling is effective as of 25 August 1999. For additional information, contact the FWS at (805) 644-1766.

Notice of Intent to Prepare an EIS on Resident Canada Goose Management

The FWS is issuing a notice to advise the public that they are initiating efforts to prepare an Environmental Impact Statement (EIS) for resident Canada goose management under the authority of the Migratory Bird Treaty Act. The EIS will consider a range of management alternatives for addressing expanding populations of locally-breeding Canada geese that are increasingly posing threats to human health and safety and injuring personal and public property. The notice describes possible alternatives, invites public participation in the scoping process for preparing the EIS, and identifies the FWS official to whom you may direct questions and comments. While the FWS has yet to determine potential sites of public scoping meetings, it will publish a notice of any such public meetings with the locations, dates, and times in the Federal Register. Resident geese control is an issue on many military installations. Contact the FWS at (703) 358-1714 for additional information.

Environmental Protection and Community Right-to-Know Act (EPCRA):**EPA Proposes to Expand "Right-to-Know" About Lead Hazards**

In another step to expand the public's right to know about toxic chemicals released into local communities, the EPA is proposing to require significantly more public reporting on lead emissions. Currently, facilities are not required to report their lead and lead compound releases to the air, water and land unless they manufacture or process more than 25,000 pounds annually or use more than 10,000 pounds annually. Under today's proposal the reporting thresholds would be lowered to 10 pounds per facility per year and substantially increase the amount of information made available to the public. This action would significantly increase reporting of public information under the Toxic Release Inventory Program. Copies of the announcement are available on-line at <http://www.epa.gov/fedrgstr/> or by calling the EPA at (800) 553-0202. General information about lead is available at <http://www.epa.gov/lead/>. Information about the EPA's Toxics Release Inventory is available at <http://www.epa.gov/opptintr/tri/>.

Miscellaneous:**EPA Issues Guidance on Government Purchasing of Green Products**

On 14 September 1998, President Clinton signed Executive Order (EO) 13101, entitled "Greening the Government through Waste Prevention, Recycling and Federal Acquisition. As an outcome of the EO, the EPA developed "Acquisition of Environmentally Preferable Products and Services" guidance that assists Executive agencies in identifying and purchasing products and services that are less harmful to human health and the environment. By complying with this EO federal agencies will fulfill many of the Administration's priorities. These priorities include: 1) creating a greater demand for "greener" products and services and making them more widely available to all consumers; 2) purchasing greener products that minimize the amount of waste and toxicity; and 3) encouraging partnerships among federal agencies to share expertise in their environmentally preferable purchasing efforts. Notice of the EO is available on the Internet at <http://www.epa.gov/homepage/fedrgstr/>. More information on the Environmentally Preferable Purchasing Program is available at <http://www.epa.gov/opptintr/epp/>.

EPA Recognizes DoD's Pesticide Management Program

The EPA is giving the Department of Defense a Special Achievement Award in recognition of efforts to reduce pesticide use and risks across all of its major installations. The DoD reduced its pesticide usage by 50 percent, from 892.4 million pounds of active ingredient in 1993 to 450.6 million pounds in 1998. The DoD's Armed Forces Pest Management Board developed its pesticide risk reduction strategy in cooperation with the EPA and other federal agencies and organizations actively working to establish programs that effectively reduce health and environmental risks associated with pesticide use. More information on the DoD's program and the EPA's Pesticide Environmental Stewardship Program is available on-line at <http://www.epa.gov/pesticides/peesp/>.

CONFERENCES AND SYMPOSIUMS

- **30 November - 2 December 1999: Partners in Environmental Technology - Arlington, VA.** The Strategic Environmental Research and Development Program (SERDP) will hold its 1999 technical symposium and workshop entitled "Meeting Today's Needs While Preserving Our Future." The forum will feature comprehensive sessions that will address opportunities to mitigate or eliminate environmental impacts and preserve natural resources for future generations. Contact the SERDP at (703) 736-4548 or download registration materials from the Internet at <http://www.serdp.org/>.

ARIZONA***Regulatory Developments*****Endangered Species:**

- **Notice: Withdrawal of Proposed Rule To List the Chiricahua Dock as Threatened.** The U.S. Fish and Wildlife Service (FWS) announces its intention to withdraw the proposed rule to list the Chiricahua dock (*Rumex orthoneurus*) as a threatened species under the Endangered Species Act (ESA). The FWS finds that the available information does not support the listing of this species as threatened. Although threats to some populations of this plant may persist, these threats are not sufficiently widespread to pose a significant risk to the species within the foreseeable future. Recent genetic research and survey efforts indicate that the plant has a much larger distribution than previously thought. This species is a known inhabitant of Fort Huachuca. Contact the FWS at (602) 640-2720 for more information.

CALIFORNIA

Legislative Developments

The 1999-2000 California Legislature convened on 7 December 1998 and is scheduled to adjourn on 30 November 2000.

Assembly Bill 50: Water Quality and Pollution Prevention

Summary: Authorizes the State Water Resources Control Board and regional water quality control boards to require that an application for waste discharge requirements include a prescribed pollution prevention plan. Requires the State Board to incorporate the plans as part of the waste discharge requirements for specific dischargers. Requires that the State Board adopt regulations establishing specific standards for the issuance of waste discharge requirements. Prohibits the Board from prescribing waste discharge requirements for publicly owned treatment works (POTWs) unless the Board determines the POTW requires discharge monitoring reports from its significant industrial users. Requires significant industrial users to submit discharge monitoring reports to a POTW up to once per month. Requires the Board to prescribe effluent limitations as part of the waste discharge requirements of a POTW. Authorizes a POTW to require pollution prevention plans as part of the pretreatment requirements applicable to significant industrial users.

Status: Introduced before the Assembly on 7 December 1998. Referred to the Committee on Environmental Safety and Toxic Materials on 3 March. Amended by Committee on 18 March and referred to the Committee on Appropriations on 23 March. The bill was suspended until a later date on 28 April. Passed out of committee on 2 June and referred to the Committee on Environmental Quality on 7 June. Amended in Committee on 21 June. Withdrawn from Committee and suspended indefinitely on 14 July 1999.

Outlook: Prospect for passage appears unlikely. Passage of this bill would require federal facilities to audit all pollutants and provide a cost analysis for pollution prevention plans.

Assembly Bill 241: Hazardous Waste Identification

Summary: Deletes the requirement under current law that the hazardous waste code identification system require hazardous wastes that are identified pursuant to the RCRA criteria, but that are not regulated under RCRA, to be identified by a RCRA code. Prohibits the revised code system from requiring non-RCRA hazardous wastes to be identified by a RCRA hazardous waste code.

Status: Introduced before the Assembly on 28 January. Referred to Assembly Environmental Safety and Toxic Materials Committee on 4 February. Amended in Committee on 3 March and referred to the Committee on Appropriations on 23 March. Passed the Assembly on 22 April and transmitted to the Senate. Read on the Senate floor and referred to the Committee on Environmental Quality on 28 April. A hearing was held on 21 June. Passed out of Committee and referred to the Committee on Appropriations on 13 July. Passed the Senate on 23 August and transmitted back to the Assembly for further consideration. Assembly concurred with the Senate amendments and enrolled the bill on 26 August 1999.

Outlook: Look for Governor Davis to sign AB 241 into law.

Assembly Bill 399: Wetlands Development Permitting

Summary: Revises provisions to require that every coastal development permit issued for any development within the coastal zone include a specified finding pertaining to public access and public recreation policies. Current law, the California Coastal Act of 1976, requires that any person wishing to perform or undertake any development in the coastal zone, as defined, obtain a coastal development permit, except as provided. The Act also requires that every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone include a specific finding that the development is in conformity with specified public access and public recreation policies.

Status: Introduced before the Assembly on 12 February 1999. Referred to the Committee on Natural Resources on 25 February. A hearing scheduled for 5 April 1999 was cancelled by the bill's sponsor.

Outlook: This bill is potentially dead for the session.

Assembly Bill 511: Nonpoint Source Pollution (I)

Summary: Defines specified terms for purposes of the California Coastal Act of 1976 relating to nonpoint source pollution and requires that the specified access policies be implemented to take into account the need to reduce nonpoint source pollution. Revises specified coastal protection policies contained in the Act to encourage various management measures to prevent nonpoint source pollution. Requires that new development in the coastal zone comply with a specified nonpoint source management plan prepared pursuant to federal law. Requires that the California Coastal Commission prepare, implement, and monitor the plan known as the "Polluted Runoff Plan of the California Coastal Commission," annually and in a manner that ensures coordination among federal, state and local agencies, and the most efficient use of limited fiscal resources by those agencies.

Status: Introduced before the Assembly on 18 February and referred to Committee on Natural Resources on 4 March. Hearing held, reported from Committee and referred to Assembly Appropriations Committee on 5 April. Amended in Committee on 26 April. Amended in committee on 1 June and passed the Assembly on 3 June. Referred to the Senate Committee on Natural Resources and Wildlife on 17 June. Passed out of Committee and referred to the Committee on Appropriations on 14 July. Suspended indefinitely in Committee on 23 August 1999.

Outlook: Prospect for passage appears unlikely. Passage of this bill would likely result in addition reporting requirements from federal facilities.

Assembly Bill 604: Nonpoint Source Pollution (II)

Summary: Pertains to nonpoint source pollution. Requires that the State Water Resources Control Board, in consultation with the California Coastal Commission and the State Department of Health Services, establish measurable performance goals, to carry out the state's nonpoint source pollution program.

Status: Introduced before the Assembly on 19 February and referred to the Committee on Natural Resources on 23 March. Amended in committee on 26 May and passed the Assembly on 2 June. Referred to the Senate Committee on Natural resources and Wildlife on 23 June. Passed out of Committee and referred to the Committee on Appropriations on 17 August. Suspended in Committee on 23 August and the reactivated by the sponsor on 30 August 1999.

Outlook: Prospects for passage are unclear. Passage of this bill would implement stricter discharge standards and likely effect federal facility operations.

Assembly Bill 626: Endangered Species

Summary: Pertains to the incidental taking of endangered species. Deletes the repeal date of existing law, providing that if any person obtains an incidental take statement under the federal Endangered Species Act from the Secretary of the Interior or the Secretary of Commerce, no further authorization or approval is necessary under the California Endangered Species Act for that person to take that species. Requires that person to notify the Director of the California Fish and Game Department.

Status: Introduced before the Assembly on 19 February and referred to the Committee on Water, Parks and Wildlife on 8 March. A hearing was scheduled for 13 April 1999, but was canceled by the sponsor.

Outlook: This bill is potentially dead for the session. The sponsor was instrumental several years ago in passing incidental takings legislation, over the opposition of the environmental groups and certain legislators. It is expected that this bill will encounter strong opposition from the same groups.

Assembly Bill 710: Ammonium Perchlorate

Summary: Requires that the Department of Health Services (DHS) establish a demonstration project regarding the removal of ammonium perchlorate from drinking water. Current law, the Calderon-Sher Safe Drinking Water Act of 1996, requires the DHS to submit to the legislature a Safe Drinking Water Plan for California once every 5 years, and to take all reasonable measures necessary to reduce the risk to the public health from waterborne illnesses in drinking water caused by cryptosporidium and giardia. The law also requires that the: (1) DHS adopt primary drinking water standards for contaminants in drinking water that are to be set at levels as close as possible to the corresponding public health goal; and (2) Office of Environmental Health Hazard Assessment perform a risk assessment and, based upon that risk assessment, adopt a public health goal for contaminants in drinking water based exclusively on public health considerations.

Status: Introduced before the Assembly on 24 February and referred to Environmental Safety and Toxic Materials Committee on 8 March. A hearing was scheduled for 13 April 1999, but was canceled by the sponsor.

Outlook: This bill is potentially dead for the session. Perchlorate is the primary oxidizing component in solid rocket propellants, munitions, and fireworks. Staff indicate that perchlorate can interfere with the thyroid gland's ability to produce thyroid hormones, and can cause brain damage in fetuses, and at high concentrations it causes a potentially fatal form of anemia in adults. In 1997, DHS tested 500 wells for perchlorate and detected the chemical in 20 percent of these wells. DHS has already set a guidance standard of 18 ppb of perchlorate in drinking water.

Senate Bill 25: Human Health and Air Toxics

Summary: The 22 March amendments impose specified requirements on the California Air Resources Board (CARB) relating to the protection of infants and children from environmental health hazards. Requires the CARB to carry out an ongoing review of criteria air pollutants and toxic air contaminants pursuant to specified schedules. Creates the Office of Children's Environmental Health and Protection within the Environmental Protection Agency to serve as chief advisor to the Secretary for Environmental Protection and to the Governor on matters relating to public health and environmental protection as it relates to children. Requires the Board to assess: (1) exposure patterns among infants and children that are likely to result in disproportionately high exposure to ambient air pollutants in comparison to the general population; (2) special susceptibility of infants and children to ambient air pollutants in comparison to the general population; (3) the effects on infants and children of exposure to ambient air pollutants and other substances that have a common mechanism of toxicity; and (4) the interaction of multiple air pollutants on infants and children, including the interaction between criteria air pollutants and toxic air contaminants.

Status: Introduced before the Senate on 7 December 1998 and referred to the Senate Committee on Rules 6 January. Reported from Committee and referred to the Committee on Environmental Quality on 24 March. Amended in Committee on 28 April. Reported from committee and amended on the Senate floor on 1 June. Passed the Senate on 2 June. Referred to the Assembly Committees on Natural Resources and Environmental Safety and Toxic Materials on 21 June. Passed out of Committee and referred to the Committee on Appropriations on 16 August. Suspended indefinitely on 26 August 1999.

Outlook: This bill is potentially dead for the session. The sponsor introduced this bill in 1997 but failed to achieve consensus to have it pass by the end of the 1998 session; this bill does not have the teeth that last session's AB 278 had. SB 25 requires the state to review air quality standards to determine if they adequately protect children's health and to revise those standards if they do not. The bill does not spell out what will be required of state agencies to carry out provisions of the bill.

Senate Bill 89: Environmental Equity/Justice

Summary: Requires the Secretary for Environmental Protection, not later than 1 April 2000, to convene a Working Group on Environmental Justice, comprised of representatives from each environmental agency, for the purpose of: (1) identifying disproportionately high and adverse human health or environmental effects on minority populations or low-income populations; and (2) providing guidance to state agencies that implement, administer, and enforce environmental laws in the state. Requires each environmental agency, in cooperation with the Working Group on Environmental Justice, to take specific actions to develop an agencywide strategy to identify and address issues relating to environmental justice. Defines "environmental justice" as the fair treatment of people of all races, cultures, and income levels with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Status: Introduced before the Senate on 7 December 1998. Referred to the Senate Committee on Environmental Quality on 6 January. Amended in Committee and referred to the Committee on Appropriations on 5 April. A hearing scheduled for 10 May 1999 was postponed by the sponsor.

Outlook: Prospects for passage unclear. Similar legislation passed during the previous several legislative sessions, but was vetoed by former Governor Pete Wilson. The sponsor is optimistic that the legislation will pass this session and that Governor Gray Davis (D) will sign it. Sponsor expects support from the Sierra Club and Communities for a Better Environment.

Senate Bill 115: Human Health and Environmental Equity/Justice

Summary: Requires the Office of Planning and Research to recommend proposed changes in the guidelines used in implementing the California Environmental Quality Act (CEQA) to provide for the identification and mitigation by public agencies of disproportionately high and adverse environmental effects of projects on minority populations and low-income populations by 1 January 2001. Requires that the Office, in consultation with other state agencies, review its available databases and other available databases and information to identify affected communities and populations by 1 January 2001.

Status: Introduced before the Senate on 17 December 1998. Referred to the Senate Committee on Environmental Quality on 7 January. Amended in Committee on 10 March and referred to the Committee on Appropriations on 5 April. A hearing was held on 10 May. Referred to the Committee on Natural Resources on 3 June and amended on 23 June. Passed out of Committee and referred to the Committee on Appropriations on 2 July. Suspended indefinitely on 26 August 1999.

Outlook: This bill is potentially dead for the session. Similar legislation passed during the previous sessions but was vetoed by former Governor Wilson.

Senate Bill 136: Air Permitting

Summary: Provides that the City of Los Angeles is fully responsible for the costs associated with the implementation of air quality mitigation measures within the Owens Valley Planning Area. Requires that the mitigation measures be implemented so that the Planning Area attains federal ambient air quality standards by December 31, 2006. Requires that the state Controller deduct compliance costs pertaining to the Owens Dry lake Planning Area from any funding directed to Los Angeles until costs are recovered. Deletes the prohibition on the: (1) air quality mitigation measures affecting the right of the City of Los Angeles to produce, divert, store or convey water; and (2) Great Basin Unified Air Pollution Control District's authority regarding water production activities of the City. Authorizes the City to bring a judicial action to challenge a measure or fee imposed by the District.

Status: Introduced before the Senate on 4 January and referred to the Committee on Environmental Quality on 20 January. A Committee hearing has been scheduled for 19 April. Amended in Committee on 27 April. Hearing held and reported from Committee on 17 May. Amended on the Senate floor on 27 May and passed the Senate on 1 June. Referred to the Assembly Committee on Natural Resources on 21 June. Passed out of Committee and referred to the Committee on Appropriations on 2 July 1999.

Outlook: Prospects for passage are unclear. Military operations and public health at China Lake have been adversely impacted for years by air pollution emanating from the Owens Dry Lake bed. Funding for mitigation measures will be of benefit to military interests in the region.

Senate Bill 212: Inspection and Maintenance Programs

Summary: Establishes an enhanced emissions and inspection program in any district of origin of upwind emissions, any part of which: (1) is classified the EPA as a nonattainment area for ozone; and (2) has been determined by the California Air Resources Board (CARB) to make an overwhelming or significant contribution to downwind ozone ambient air pollutant levels in a different district that is not in attainment.

Status: Introduced before the Senate on 20 January and referred to the Senate Committee on Transportation on 27 January. Reported from Committee and referred to the Committee on Appropriations on 20 April. A hearing scheduled for 10 May 1999 was canceled by the sponsor and has been held in Committee.

Outlook: Prospects for passage are unclear. Similar legislation failed to pass last session.

Senate Bill 227: Water Quality

Summary: Requires the California Coastal Commission and the City of Monterey to: (1) contract with the State Water Resources Control Board to prepare a model for urban nonpoint source pollution protection; and (2) make the program available to specific local coastal governments. Requires that the Commission and the Board enforce a coastal nonpoint source pollution control program with specified components. Requires the development and implementation of management measures for nonpoint source pollution that protect and improve the quality of coastal waters. Requires the Commission to recommend to the Office of Planning and Research (OPR) guidelines relating to watershed, water quality, and nonpoint source pollution impacts of projects. The OPR will submit recommendations to the Secretary of the California Resources Agency.

Status: Introduced before the Senate on 26 January and referred to the Senate Committees on Natural Resources and Water and Environmental Quality on 3 February. Amended in Committee and referred to the Committee on Appropriations on 23 March. A hearing was held and the bill was held in Committee on 17 May. Reported from Committee and passed the Senate on 2 June. Referred to the Assembly Committees on Water, Parks, and Wildlife and Natural Resources on 21 June. Amended in Committee on 23 June. Passed out of Committee and re-referred to the Committee on Natural Resources on 29 June. Amended in Committee and referred to the Committee on Appropriations on 15 July. Suspended indefinitely on 26 August 1999.

Outlook: Prospects for passage are unclear. Similar legislation failed to pass last session and the current bill is being held on the Senate suspense file for consideration at a later date.

Senate Bill 390: Water Quality

Summary: Under the Porter-Cologne Water Quality Control Act, the Water Resources Control Board and the California regional water quality control boards are among the principal agencies with authority over water quality. The Act requires each person for whom waste discharge requirements have been prescribed to submit annual fees and filing fees, with specified fee limits established by the state board. Persons discharging waste are required to file with the appropriate regional board a report of the discharge and the discharge is subject to waste discharge requirements prescribed by that regional board. Persons are generally prohibited from initiating a new discharge of waste, or making any material changes in any discharge of waste, prior to the filing of the waste discharge report, and after the filing of that report unless waste discharge requirements have been prescribed or, under certain circumstances, 120 days have elapsed since the filing of that report. The Act authorizes the regional boards to waive these requirements as to a specific discharge or type of discharge. This bill would authorize the regional boards to waive these requirements as to a specific discharge or type of discharge if the waiver is not against the public interest and the term of the waiver does not exceed 5 years. The Act provides that a person may be liable civilly in accordance with prescribed provisions if that person intentionally or negligently violates prescribed orders, or, in violation of prescribed requirements, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance, or causes or permits any oil or residuary product of petroleum to be deposited in the waters of the state, except in accordance with the Act.

Status: Introduced in the Senate on 12 February and assigned to the Committee on Environmental Quality. Amended in Committee and re-referred to the Committee on Environmental Quality on 13 April. Passed the Senate on 2 June and transmitted to the Assembly. Introduced in the Assembly and held at the floor on 2 June. Referred to the Assembly Committees on Environmental Safety and Toxic Materials and Judiciary on 21 June. Passed out of Committee and referred to the Committee on Judiciary on 12 July. Passed out of Committee and re-referred to the Committee on Environmental Safety and Toxic Materials on 14 July. Amended in Committee, passed, and referred to the Committee on Appropriations on 26 August 1999.

Outlook: Per the U.S. Navy, SB 390 would have prevented the Navy from obtaining the necessary NPDES permits to berth their ships in San Diego Bay. The bill's sponsor was invited to tour Navy facilities in San Diego where environmental personnel demonstrated NPDES programs that have improved water quality in the bay. The Navy also testified at a Senate Environmental Quality Committee hearing regarding their concerns, and was successful in getting the sponsor to amend certain provisions of the bill.

Senate Bill 635: Drinking Water Contaminants

Summary: Requires the Office of Environmental Health Hazard Assessment (OEHHA) to prepare and publish an assessment of the risks to public health posed by each contaminant for which the department proposes a primary drinking water standard. Requires that the risk assessment contain an estimate of the level of the contaminant in drinking water that may cause or contribute to adverse health effects that would be known as the public health goal for the contaminant. Revises the criteria upon which the public health goal for each contaminant would be based. Current law requires that the OEHHA shall perform a risk assessment and, based upon that risk assessment, adopt a public health goal for contaminants in drinking water based exclusively on public health considerations for each drinking water contaminant regulated, or proposed to be regulated, by the Department of Health Services pursuant to a primary drinking water standard.

Status: Introduced before the Senate on 24 February and referred to Senate Environmental Quality Committee on 10 March. Amended in Committee on 3 May. A hearing was held, reported from Committee, and referred to the Senate Committee on Appropriations on 10 May. Passed the Senate on 27 May and referred to the Assembly Committee on Environmental Safety and Toxic Materials on 10 June and amended on 15 June. Amended and passed out of Committee and referred to the Committee on Appropriations on 12 July. SB 635 was placed on the Assembly's inactive file on 31 August 1999.

Outlook: Prospects for passage appear unclear, as the bill has been listed as inactive.

Senate Bill 755: CEQA Impact Fees

Summary: Provides that an environmental document prepared pursuant to the California Environmental Quality Act (CEQA) is not valid for use in a subsequent project if the certification of the document occurred more than 5 years before the filing of an application for that subsequent project. Requires a lead agency, under the CEQA, to find that a project may have a significant impact on the environment and would require an environmental impact report to be prepared for a project if the lead agency makes specified findings. Authorizes a lead agency to refuse to approve a project if it makes specified determinations.

Status: Introduced before the Senate on 24 February and referred to the Committee on Environmental Quality on 10 March. Amended in Committee on 5 April. Reported from Committee and referred to the Committee on Appropriations on 19 April. Amended in Committee on 27 April. A 17 May 1999 Committee hearing was canceled by the sponsor. Amended in committee on 2 June and passed the Senate on 3 June. Referred to the Assembly Committee on Natural Resources on 21 June and amended on 7 July. Passed out of Committee as amended and referred to the Committee on Appropriations on 16 August. Suspended indefinitely on 26 August 1999.

Outlook: Prospects for passage are unclear. Passage of SB 755 has the potential to delay CEQA reviews concerning military projects by State agencies. The California Chamber of Commerce opposes the bill, calling it one of the "ten worst bills" of this session and asserting that it will raise the cost of doing business in the State.

Senate Bill 1099: Defense Retention and Conversion Act

Summary: This bill would establish the California Defense Retention and Conversion Council in the Trade and Commerce Agency. The bill would set forth the membership and duties of the council in regard to defense retention and conversion and military base reuse activities in the state, including the administration of a Defense Retention Grant Program and specified activities developed by the former California Defense Conversion Council.

Status: Introduced before the Senate on 26 February and referred to the Committee on Government Organization on 18 March. A Committee hearing is scheduled for 27 May. Amended on 9 June and passed the Senate on 10 June. Amended in Committee and passed on 15 July and re-referred to the Committee on Appropriations on 23 August 1999.

Outlook: Likely to be considered. The bill creates an increased effort to retain military installations and facilities by resolving conflicts between State government and the DoD.

Senate Bill 1269: Diesel Exhaust

Summary: New provisions require the Office of Environmental Health Hazard Assessment (OEHHA) to conduct the necessary scientific studies to evaluate the exposure of the residents of this state to vehicular diesel exhaust in a range of reasonably anticipated circumstances, and to make this exposure information available. Current law, as provided by the Governor's Reorganization Plan No. 1 of 1991, authorizes the OEHHA to perform specified activities relating to the assessment of the health risk of chemicals on humans, and to provide toxicological and scientific consultation. Original version authorized a lead agency, in consultation with the State Air Resources Board, to adopt specific regulations that provide a uniform, statewide warning requirement for environmental exposures to diesel engine exhaust.

Status: Introduced before the Senate on 26 February and referred to the Committee on Environmental Quality on 17 March. Reported from Committee and referred to the Committee on Appropriations on 19 April. Amended in Committee on 27 April. Hearing held and the bill was reported from Committee on 17 May. Amended in committee on 28 May and passed the Senate on 2 June. Introduced before the Assembly and referred to the Committee on Transportation on 10 June. Withdrawn from Committee and re-referred to the Committee on Environmental Safety and Toxic Materials on 30 June. Amended and

passed out of Committee and referred to the Committee on Appropriations on 16 August. Passed the Assembly and transmitted back to the Senate on 30 August 1999.

Outlook: Likely to pass. Legislative staff state that the sponsor hopes to develop a solution for community-wide noticing for diesel exhaust and prevent future lawsuits. According to agency staff, the CARB extended the comment period to the middle of March for its draft diesel-emission risk management guidance, the first part of a multiple report plan to reduce diesel-engine emissions. The plan would affect both mobile and stationary diesel sources to determine potential exposure to and impacts on general populations. Last year, CARB listed diesel as a toxic air contaminant (TAC), which initiated the regulatory activity. Legislative staff note that the Health Effects Institute (HEI) is expected to issue its own evaluation of risk factors associated with diesel emissions. The EPA is likely to issue its risk factor estimates soon.

Regulatory Developments

Air Quality:

- **Final Rule: Approval of SIP.** The EPA is approving a State Implementation Plan (SIP) revision from the State of California demonstrating that the California Low Emission Vehicle program qualifies as a substitute for the Clean Air Act (CAA) Clean Fuel Fleet (CFF) vehicle program. The CAA requires states, in order to opt-out of the CFF vehicle program, to submit a substitute program for all or a portion of the program which consists of measures not otherwise required by the CAA and that achieves at least equal long-term emission reductions of ozone-producing and air toxic emissions. The EPA is taking these actions under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national ambient air quality standards (NAAQS), and plan requirements for nonattainment areas. This approval is effective on 27 September 1999. For additional information, contact the EPA at (415) 744-1225.
- **Final Rule: Approval of SIP.** The EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the Federal Register on 4 May 1999. The revisions concern rules from the South Coast Air Quality Management District (SCAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act (CAA). The revised rules control VOC emissions from solvent cleaning and motor vehicle refinish coating operations. The EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas. This action is effective on 13 September 1999. Call the EPA at (415) 744-1185 for additional information.
- **Direct Final Rule: Approval of SIP.** The EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP) which concern the control of particulate matter (PM) emissions from open burning, incinerator burning, and orchard heater sources in the Kern County Air Pollution Control District (KCAPCD), Northern Sierra Air Quality Management District (NSAQMD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), Siskiyou County Air Pollution Control District (SCAPCD), Tehama County Air Pollution Control District (THCAPCD), and Tuolumne County Air Pollution Control District (TOCAPCD). This approval action will incorporate these rules into the federally-approved SIP. The intended effect of this action is to regulate emissions of PM in accordance with the requirements of the Clean Air Act (CAA). Thus, the EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for attainment and nonattainment areas. This rule is effective on 18 October 1999. Additional information is available by calling the EPA at (415) 744-1135.
- **Direct Final Rule: Approval of SIP.** The EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules from the South Coast Air Quality

Management District (SCAQMD), Ventura County Air Pollution Control District (VCAPCD), and Mojave Desert Air Quality Management District (MDAQMD). This approval action will incorporate two rules into the federally approved SIP and remove two rules from the SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act (CAA). The two rules control VOC emissions from storage tank cleaning and degassing operations and from components at crude oil and natural gas production and processing facilities. The two rules to be removed control VOC emissions from pumps, compressors, and relief valves. The EPA is finalizing the approval of these revisions of the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas. This rule is effective on 18 October 1999. For additional information, contact the EPA at (415) 744-1183.

- **Direct Final Rule: Approval of SIP.** The EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the following districts: Bay Area Air Quality Management District (Rule 8-26, Magnet Wire Coating Operations); Kern County Air Pollution Control District (Rule 410.4, Surface Coating of Metal Parts and Products); Monterey Bay Unified Air Pollution Control District (Rule 434, Coating of Metal Parts and Products); and, South Coast Air Quality Management District (Rule 1107, Coating of Metal Parts and Products). This approval action will incorporate these rules within the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) according to the requirements of the Clean Air Act (CAA). The revised rules control VOC emissions from the surface coating of magnet wire and miscellaneous metal parts and products. The EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas. This rule is effective on 18 October 1999. Contact the EPA at (415) 744-1226 for more information.
- **Direct Final Rule: Approval of SIP.** The EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions are rules from the San Joaquin Valley Unified Air Pollution Control District (District). These rules were submitted by the State on behalf of the District to provide general permitting requirements and general provisions for the implementation of NSR and other SIP requirements for stationary sources in the District. This approval action will incorporate these rules into the federally approved SIP. The EPA is approving these rules to support District new source review (NSR) rules that are required by section 110(a) and part D of Clean Air Act (CAA). These other rules, which are required for areas that have not attained the national ambient air quality standards (NAAQS) for one or more pollutants, will be the subject of a subsequent rulemaking action. The EPA is finalizing the approval of these general provisions and general permitting rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas. This rule is effective on 21 September 1999. Contact the EPA at (415) 744-1211 for more information.

Endangered Species:

- **Proposed Rule: Designation of Critical Habitat.** The U. S. Fish and Wildlife Service (FWS) proposes to designate critical habitat pursuant to the Endangered Species Act (ESA) for the tidewater goby (*Eucyclogobius newberryi*). The species is now classified as endangered throughout its entire range. The FWS recently determined that, north of Orange County, more populations exist than were known at the time of the listing, that the threats to those populations are less severe than previously believed, and that the tidewater goby has a greater ability than was known in 1994 to recolonize habitats from which it is temporarily absent. Based on this new information, the FWS has proposed removal of the northern populations of tidewater goby from protection under the ESA. The FWS also determined that the Orange and San Diego Counties population of tidewater gobies constitutes a distinct population segment (DPS) that is genetically distinct and that continues to be threatened by

habitat loss and degradation, predation by non-native species, and extreme weather and streamflow conditions. Therefore, the FWS proposes that this DPS be retained as an endangered species on the List of Endangered and Threatened Wildlife. The only known DoD lands with critical habitat is Camp Pendleton. Included are segments of San Mateo Creek, San Onofre Creek, Las Flores Creek, Hidden Creek, Aliso Creek, French Creek, Cocklebur Creek and the Santa Margarita River. This may impact some maneuver training by ARNG on this property. Comments on the proposal will be accepted until 4 October 1999. Contact the FWS at (760) 431-9440 for additional information.

HAWAII

Regulatory Developments

No significant regulatory developments were noted for the State of Hawaii during the reporting period.

NEVADA

Regulatory Developments

No significant regulatory developments were noted for the State of Nevada during the reporting period.